

## Department of Energy

## § 712.36

(2) A copy of the valid, unrestricted state or district license of the Designated Physician and Designated Psychologist.

(c) The SOMD must submit, annually, to the Director, Office of Health and Safety or his or her designee through the Manager, a written report summarizing HRP medical activity during the previous year. The SOMD must comply with any DOE directives specifying the form or contents of the annual report.

(d) The SOMD must investigate any reports of performance issues regarding a Designated Physician or Designated Psychologist, and the SOMD may suspend either official from HRP-related duties. If the SOMD suspends either official, the SOMD must notify the Director, Office of Health and Safety or his or her designee and provide supporting documentation and reasons for the action.

[69 FR 3223, Jan. 23, 2004, as amended at 71 FR 68731, Nov. 28, 2006]

### § 712.35 Director, Office of Health and Safety.

The Director, Office of Health and Safety or his or her designee must:

(a) Develop policies, standards, and guidance for the medical aspects of the HRP, including the psychological testing inventory to be used;

(b) Review the qualifications of Designated Physicians and Designated Psychologists, and concur or non-concur with their designations by sending a statement to the Manager and an informational copy to the SOMD; and

(c) Provide technical assistance on medical aspects of the HRP to all DOE elements and DOE contractors.

[69 FR 3223, Jan. 23, 2004, as amended at 71 FR 68732, Nov. 28, 2006]

### § 712.36 Medical assessment process.

(a) The Designated Physician, under the supervision of the SOMD, is responsible for the medical assessment of HRP candidates and HRP-certified individuals. In carrying out this responsibility, the Designated Physician or the SOMD must integrate the medical evaluations, psychological evaluations, psychiatric evaluations, and any other relevant information to determine an

individual's overall medical qualification for assigned duties.

(b) Employers must provide a job task analysis for those individuals involved in HRP duties to both the Designated Physician and the Designated Psychologist before each medical assessment and psychological evaluation. HRP medical assessments and psychological evaluations may not be performed if a job task analysis has not been provided.

(c) The medical process by the Designated Physician includes:

(1) Medical assessments for initial certification, annual recertification, and evaluations for reinstatement following temporary removal from the HRP;

(2) Evaluations resulting from self-referrals and referrals by management;

(3) Routine medical contacts and occupational and nonoccupational health counseling sessions; and

(4) Review of current legal drug use.

(d) Psychological evaluations must be conducted:

(1) For initial certification. This psychological evaluation consists of a generally accepted psychological assessment (test) approved by the Director, Office of Health and Safety or his or her designee and a semi-structured interview.

(2) For recertification. This psychological evaluation consists of a semi-structured interview, which is conducted annually at the time of the medical examination.

(3) Every third year. The medical assessment for recertification must include a generally accepted psychological assessment (test) approved by the Director, Office of Health and Safety or his or her designee.

(4) When the SOMD determines that additional psychological or psychiatric evaluations are required to resolve HRP concerns as listed in § 712.13(c).

(e) Following absences requiring return-to-work evaluations under applicable DOE directives, the Designated Physician, the Designated Psychologist, or the SOMD must determine whether a psychological evaluation is necessary.

(f) Except as provided in paragraph (g) of this section, the Designated Physician must forward the completed

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medical assessment of an HRP candidate and HRP-certified individual to the SOMD, who must make a recommendation, based on the assessment, to the individual's HRP management official. If the Designated Physician determines that a currently certified individual no longer meets the HRP requirements, the Designated Physician must immediately, orally, inform the HRP management official. A written explanation must follow within 24 hours.

(g) The Designated Physician, the Designated Psychologist, or the SOMD may make a medical recommendation for return to work and work accommodations for HRP-certified individuals.

(h) The following documentation is required after treatment of an individual for any disqualifying condition:

(1) A summary of the diagnosis, treatment, current status, and prognosis to be furnished by the treatment provider to the Designated Physician;

(2) The medical opinion of the Designated Physician advising the individual's supervisor whether the individual is able to return to work in either an HRP or non-HRP capacity; and

(3) Any periodic monitoring plan, approved by the Designated Physician or the Designated Psychologist and the SOMD, used to evaluate the reliability of the individual.

(i) If the disqualifying condition was of a security concern, the appropriate procedure described in 10 CFR part 710, subpart A, applies.

[69 FR 3223, Jan. 23, 2004, as amended at 71 FR 68731, Nov. 28, 2006]

## § 712.37 Evaluation for hallucinogen use.

If DOE determines that an HRP candidate or HRP-certified individual has used any hallucinogen, the individual is not eligible for certification or recertification unless:

(a) Five years have passed since the last use of the hallucinogen;

(b) There is no evidence of any flashback within the last five years from the previous hallucinogen use; and

(c) The individual has a record of acceptable job performance and observed behavior.

## 10 CFR Ch. III (1–1–11 Edition)

## § 712.38 Maintenance of medical records.

(a) The medical records of HRP candidates and HRP-certified individuals must be maintained in accordance with the Privacy Act, 5 U.S.C. 552a, and DOE implementing regulations in 10 CFR part 1008; the Department of Labor's regulations on access to individual exposure and medical records, 29 CFR 1910.1020; and applicable DOE directives. DOE contractors also may be subject to section 503 of the Rehabilitation Act, 29 U.S.C. 793, and its implementing rules, including confidentiality provisions in 41 CFR 60–741.23 (d).

(b) The psychological record of HRP candidates and HRP-certified individuals is a component of the medical record. The psychological record must:

(1) Contain any clinical reports, test protocols and data, notes of individual contacts and correspondence, and other information pertaining to an individual's contact with a psychologist;

(2) Be stored in a secure location in the custody of the Designated Psychologist; and

(3) Be kept separate from other medical record documents, with access limited to the SOMD and the Designated Physician.

## PART 715—DEFINITION OF NON-RECOURSE PROJECT-FINANCED

Sec.

715.1 Purpose and scope.

715.2 Definitions.

715.3 Definition of "Nonrecourse Project-Financed."

AUTHORITY: 42 U.S.C. 7651o(a)(2)(B); 42 U.S.C. 7254.

SOURCE: 56 FR 55064, Oct. 24, 1991, unless otherwise noted.

### § 715.1 Purpose and scope.

This part sets forth the definition of "nonrecourse project-financed" as that term is used to define "new independent power production facility," in section 416(a)(2)(B) of the Clean Air Act Amendments of 1990, 42 U.S.C. 7651o(a)(2)(B). This definition is for purposes of section 416(a)(2)(B) only. It is not intended to alter or impact the